

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:09-cr-325

v.

HON. JANET T. NEFF

ANDREW DREW JOHNSON,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Andrew Drew Johnson has filed a motion for modification or reduction of sentence (Dkt 79) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department filed a Report of Eligibility (Dkt 82), and defendant filed a Response (Dkt 88).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, the defendant appears to be ineligible for consideration of modification of sentence, because the guideline range at sentencing was determined based on the defendant's status as a career offender. Defendant acknowledges that his sentence as a career offender precludes a

reduction at this time. Defendant wishes to preserve the issue for future consideration should the law change. See *Cvijetinovic v. Eberlin*, 617 F.3D 833, 840 (6th Cir. 2010).

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 79) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: June 22, 2015

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge